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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/848,048	05/03/2001	John E. McGunnigle	102088-0001	5582

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EXAMINER	
DAO, MINH D	

ART UNIT	PAPER NUMBER
2682	

DATE MAILED: 08/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/848,048	MCGUNNIGLE, JOHN E.	
	Examiner	Art Unit	
	MINH D. DAO	2682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 March 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _____ is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,4-9 and 11-14* is/are rejected.

7)☒ Claim(s) *3,10* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 03/28/2005 have been fully considered but they are not persuasive. Regarding the applicant's remarks on page 2, applicant argues that the 19th edition of Newton's Telecom Dictionary was published in March 2003. Examiner agrees. However, the Eighth Edition of the Newton's Telecom Dictionary published in November 1994 **gives the same definition of the MTSO**. Copies of the MTSO of both editions are attached. In addition, the MTSO, according to Newton's Telecom Dictionary, is the central office as claimed by the present invention (please refer to attached definition of MTSO).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1,2,4-9,11-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Henry (US Patent 5,590,396).

Regarding claim 1, Henry teaches a microwave communication network that overlays a public switched telephone network comprising (See figure 1; also see col. 3, lines 59-67 and col. 4, lines 1-19):

a plurality of microwave transceivers (Figure 1, item108A, 108B; In addition, items 108A and 108B each inherently includes a transceiver in order transmit and receive information) forming a microwave network (Figure 1, items 107,110, 113, 114 108A, 108) which overlays the public switched telephone network (Figure 1, items 105), the transceivers being geographically located so as to provide a wireless interoffice facility (IOF) between two or more central offices, tandem switches or other premises controlled by an incumbent local exchange carrier (ILEC) (Figure 1, items 107 via microwave link 108).

Regarding claim 2, Henry teaches that the microwave communication network as in claim 1 wherein one or more of the microwave transceivers is located proximate to one or more of the central offices, tandem switches or other premises (See figure 1, the link between items 108A(microwave facility) and 107(MTSO)).

Regarding claim 4, Henry teaches that the microwave communication network as in claim 1 wherein the wireless IOF provides redundancy to the public switched telephone network (Figure 1, links 117 and 108; col. 4, lines 8-12).

Regarding claim 5, Henry also inherently teaches that the microwave communication network as in claim 1 wherein the wireless IOF provides bandwidth at a lower cost than the public switched telephone network. It is well known to one of ordinary skill in the art that the cost of providing wireless service in general is less than the cost to build up a wireline network.

Regarding claim 6, the claim is interpreted the same as claim 5, therefore is rejected for the same reason set forth in claim 5.

Regarding claim 7, Henry teaches a method of providing wireless bandwidth in a microwave network (figure 1, items 107,110,114,106,108A, 108) which overlays a public switched telephone network (figure 1, items 105) comprising the steps of (See figure 1, and it is also well known in the art that the microwave link 108 should operate within the FCC allocated wireless bandwidth):

(1) forming a microwave network from a plurality of microwave transceivers (Figure 1, item108A, 108B; In addition, items 108A and 108B each inherently includes a transceiver in order transmit and receive information); the microwave network overlaying the public switched telephone network (See figure 1; also see col. 3, lines 59-67 and col. 4, lines 1-19);

(2) geographically arranging the transceivers so as to provide wireless interoffice facility (1017) between two or more central offices, tandem switches or other premises

controlled by an incumbent local a change carrier (ILEC) (Figure 1, items 107 via microwave link 108).

Regarding claim 8, Henry teaches a microwave communication network that overlays a public switched telephone network comprising (See figure 1; also see col. 3, lines 59-67 and col. 4, lines 1-19): a plurality of microwave transceivers (Figure 1, item108A, 108B; In addition, items 108A and 108B each inherently includes a transceiver in order transmit and receive information) forming a microwave network (Figure 1, items 107,110, 113, 114 108A, 108) which overlays the public switched telephone network (Figure 1, items 105), the transceivers being geographically located to provide a wireless interoffice facility (IOF) between one or more central offices, tandem switches or other premises controlled by an incumbent local exchange carrier (ILEC) (Figure 1, items 107 via microwave link 108) and one or more central offices, tandem switches or other premises controlled a common carrier other than the (ILEC) (Figure 1, items 103,102).

Regarding claim 9, Henry teaches that the microwave communication network as in claim 8 wherein one or more of the microwave transceivers is located proximate to one or more of the central offices, tandem switches or other premises (See figure 1, the link between items 108A(microwave facility) and 107(MTSO)).

Regarding claim 11, Henry teaches that the microwave communication network as in claim 8 wherein the wireless IOF provides redundancy to the public switched telephone network (Figure 1, links 117 and 108; col. 4, lines 8-12).

Regarding claim 12, Henry also inherently teaches that the microwave communication network as in claim 8 wherein the wireless IOF provides bandwidth at a lower cost than the public switched telephone network. It is well known to one of ordinary skill in the art that the cost of providing wireless service in general is less than the cost to build up a wireline network.

Regarding claim 13, the claim is interpreted the same as claim 12, therefore is rejected for the same reason set forth in claim 12.

Regarding claim 14, Henry teaches a method of providing wireless bandwidth in a microwave network (figure 1, items 107,110,114,106,108A,108) which overlays a public switched telephone network (figure 1, items 105) comprising the steps of (See figure 1, and it is also well known in the art that the microwave link 108 should operate within the FCC allocated wireless bandwidth):

(1) forming a microwave network from a plurality of microwave transceivers (Figure 1, item108A, 108B; In addition, items 108A and 108B each inherently includes a transceiver in order transmit and receive information); the microwave network

overlaying the public switched telephone network (See figure 1; also see col. 3, lines 59-67 and col. 4, lines 1-19);

(2) geographically arranging the transceivers so as to provide wireless interoffice facility (1017) between two or more central offices, tandem switches or other premises controlled by an incumbent local a change carrier (ILEC) (Figure 1, items 107 via microwave link 108) and one or more central offices, tandem switches or other premise controlled by a common carrier other than the ILEC (figure 1, items 103,102).

Allowable Subject Matter

2. Claims 3 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding claim 3, Henry (US Patent 5,590,396) teaches the limitations set forth in claim 1. However, Henry fails to teach that the ILEC provides insufficient wireline bandwidth between two or more of the central offices, tandem switches or other premises, and the microwave network provides wireless bandwidth as an alternative communication path.

Regarding claim 10, Henry (US Patent 5,590,396) teaches the limitations set forth in claim 8. However, Henry fails to teach that the ILEC provides insufficient wireline

bandwidth between two or more of the central offices, tandem switches or other premises, and the microwave network provides wireless bandwidth as an alternative communication path.

Conclusion

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MINH D. DAO whose telephone number is 571-272-7851. The examiner can normally be reached on 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, NICK CORSARO can be reached on 571-272-7876. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Minh Dao
Art Unit 2682
August 18, 2005

LEE NGUYEN
PRIMARY EXAMINER